Clause 2 was added to the Bill.

The question that Clauses 3 and 4 stand part of the Bill was put and carried.

Clauses 3 and 4 were added to the Bill.

The question that the preamble and title of the Bill stand part of the Bill, was put and carried.

The preamble and title were added to the Bill.

Mr. N. Ramakrishna Pillai : I move that the Bill be passed.

The motion was put and carried and the bill was passed.

THE TRAVANCORE CHITTIES BILL.

Mr. N. Ramakrishna Pillai : I move that the Travancore Chitties Bill, as passed by the Assembly, be taken into consideration.

The motion was seconded.

Mr. V. N. Padmanabha Pillai (*Parur, Kunnatnad and Muvattupuzha cum Devicolam*) : I move that explanations (1) and (2) given in Clause 3, sub clause 2 be deleted.

President : Order, order. You have given notice for amendment of Clause 3. We have not yet come to Clause 3, because clauses 1 and 2 have not been put to vote. At the present stage when the motion is for consideration, remarks and observations on the Bill, as a whole may be made.

Mr. K. S. Joseph : The Bill, as a whole, when compared to the previous Act, has made certain stringent provisions as against the foreman. The Bill would seem to suggest that till now all the fault was on the side of the foreman and that the subscribers were all very good boys. I wish to suggest.....

Mr. N. Ramakrishna Pillai : On a point of order, Sir, This is a Bill which has been sent to the Select Committee and passed by the Assembly. Is it open for discussion now ?

President : It is open to him to speak on it.

Mr. K. S. Joseph : Not that I object to it.

President : Elsewhere in the other Chamber, the foreman seems to have had very little support. Mr. Joseph seems to be otherwise inclined.

Mr. K. S. Joseph : I was saying that from the Bill it would appear that the foremen were all sinners. But a careful study of the reasons for the collapse of the Chitties during the last ten

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years, between 1108 and 1118, would show that a very large number of subscribers failed to subscribe at the proper time, and consequently the foreman also failed to make payments to the non-prized as well as to the prized subscribers. It is indeed sad to find that no provision has been made for a quicker realisation of the defaults. After the experience of the last few years from 1097 to 1120, they, the framers of this bill were not able to make any provision for the proper realisation of the chitty amount from the subscribers as and when the default is made, I do not think we will have done much by way of amendment by introducing this new Bill. As I said in the beginning this Bill only makes stringent provisions as regards the foreman. If anything the subscriber has been given little more latitude when he has been given the freedom to deposit in court the instalments that he has defaulted and then one more chance is given to him, 'to make default'. I would say, speaking as I do on behalf of the foremen.

I would suggest that in order that Chitties may be properly conducted, there may be some stringent measures with regard to the defaulting subscribers, who may be made to pay up the amounts then and there. So long as that is not done, this would be a one-sided Bill. I would suggest to the honourable member in charge of the Bill, to consider this question carefully. I think in the Act regarding Co-operative Societies there is a provision whereby the defaulted amounts can be collected. If some such provision is made in this regard also, it will be found that not all foremen are bad boys.

Mr. K. G. Narayana Panicker: In supporting the Bill, I, for my part, on the other hand, would submit that the interests of the subscriber are not properly protected, but the interests of the foremen are amply protected. For example Section 18 protects the interests of the foreman; it provides that he can obtain his prize amount and other dues. That is one of the primary concerns of the foreman in starting the chitty, *i. e.*, to receive and realise contributions, to demand a reasonable security from subscribers and to do all the other acts necessary for the due and proper conduct of the chitties. On the other hand, in the case of the subscriber, it is not provided under the rules when he is to get his prize amount. Generally in all the variolas there will be a provision that after the drawing of the chitty, after so many days, money must be paid. I do not raise it as a complaint but I would submit that in all the prior variolas it would be laid down that so many days after the realisation of the money, the prize would be paid. But in Section 9 even though so many provisions are laid down as to what a variola should contain

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[Mr. K. G. Narayana Panicker.]

there is no clause as to when the money should be paid. And further in Section 15 about the minutes of the proceedings, what is provided is only full particulars regarding the disposal of the prize money in respect of the preceding instalments. The disposal of the non-prized money has not been provided for. What is required is only a full detail. On the other hand, I would submit that a foreman ought not to be allowed to conduct a chitty unless the amount is properly paid. I am only suggesting that the interests of the foreman are properly protected, and that some more consideration has to be given to the interests of the subscribers. With these few words I support the Bill.

Mr. T. M. Chidambarathanu Pillai: Sir, Travancore is regarded as the birth place of the modern chitty business. This class of business thrives in different parts of India especially South India and Ceylon. This chitty is known by different names; in different parts of India. It is called chitty in Travancore kuri in Malabar and Nidhi in Madras. This is an interesting business system of lending. This scheme comprises all the advantages of modern system of savings bank. Recurring deposits and short term insurance combined in one, with decidedly superior and more substantial benefits. The amounts invested in the scheme bring in more return than ordinary investments and are easily available to the depositors to meet contingencies at any time. The scheme provides facilities to the subscriber, rich and poor alike, to command large sums to meet unusual and unavoidable expenses for example, marriage, education etc. and help them in discharging the same by small and easy instalments at stated periods. The chief advantage under the scheme is the repayment of the loan in instalment and without fear of its being called up before the due date. Those who bid the chitty at later dates get the advantage of compulsory savings and earn 10 to 18 per cent interest from the distribution of discounts in every instalments, provided everything goes on well with the foremen and subscribers.

This chit system, if honestly carried out and organised on sound financial basis would assist a certain section of borrowers.

Mr. G. Ravi Varma: Is it not a fact that one and the same person conducted over 10 chitties or so, for the conditions then existed?

Mr. T. M. Chidambarathanu Pillai: A foreman is at liberty to get as many licenses from the authorities if he has resources to conduct such number of chitties, there is no objection in his conducting them on the same day or on different dates.

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Primarily it is the grant of license issued by the authorities that is more important. The licensing authorites must decide each case on its own merits.

If the subscribers are in a position to offer adequate securities and are able to pay regular instalments, they would find great relief in joining well regulated chitties. If the promoter or the foreman of the chit is dishonest or slack in the selection of subscribers, sureties and securities, the subscribers are sure to lose their savings. In the same way if the subscribers are not prompt and regular in payments of instalments the foreman and chitty will collapse resulting in loss to both.

But there are certain inherent weaknesses found in this form of bsuiness; generally it was the practice that the business is worked with promoters with no capital of their own and various schemes are placed before the public, calculated to bring in the maximum of benefits to the promoters at the cost of the subscribers. It is no doubt for the borrowers and lenders to watch their own interest and borrow or lend money at the rate of interest suitable to themselves. Government can have no say in these dealings if they do not come under gambling or lottery transactions. At the same time it is the paramount duty of every administration to protect the interest of the illiterate and innocent members of the public by proper legislation.

To prevent the vagaries of unscrupulous foreman and to operate as an effective check in the starting of chitties by men without sufficient means, the Chitty Act came to be enacted as early as 23rd Vrischigam 1094. It was later on amended by Act VII of 1097 and it was subsequently amended by Act I of 1100 and it was further amended by Act VI of 1108. Then there was the Banking Enquiry Committee which made certain recommendations for proper working out chitties.

In this Act, attempt has been made to regulate and control the foremen and to provide adequate remedies for subscribers as well. But the difficulty in the realisation of subscriptions from the subscribers, prized and non-prized is not solved and cannot be solved. The safety and security of business depend entirely on the selection of willing, competent and proper subscribers by the foreman. The legislation can attempt only to minimise dangers to both and provide facilities for the economic well being of the State.

In this Act, adequate provisions have been introduced to bring all kinds of chitty both below Rs. 100 and above Rs. 100 and chitties in kind by registration and the issue of licenses to chitty below Rs. 100 so that the Government and people may be in a position to

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[Mr. T. M. Chidambarathanu Pillai.]

know the working of such credit institution in Travancore and the capital involved in the same. There are provisions for compelling foreman to offer adequate securities both in cash and in property for the proper conduct of chitty irrespective of the willingness or not of the subscribers. Provision is made for standard variolas and also uniform percentage of commissions to be paid to foremen. Penalty have been provided for infringing the provisions of this Act. Investments of chitty funds were made compulsory in approved banks. Keeping of necessary and proper accounts, inspection of the same and forwarding of balance sheet for effecting transfers are all adequate provisions intended to check the free act of the foreman. Provisions of winding up and speedy disposal of claims also are provided. Along with these, it would have been better if compulsory arbitration are also provided as is found in the Co-operative Act which will decide disputes with less cost and delay. With these words I support the bill.

Mr. G. Narayana Aiyar : Sir, I have to submit a word in this connection. Although I support the bill, the general consensus of opinion amongst the members seems to be to take up the consideration of this bill at a later session because this is an important piece of legislation. Some more attention has to be bestowed on the matter and therefore my suggestion is that the consideration of the Bill may be postponed to the next session. There is also the fact that the bill was first published on 18/8/1944 and there were various amendments on the bill tabled before the Assembly. These facts go to show that the bill is an important measure and sufficient attention has to be bestowed on it.

Mr. N. Ramakrishna Pillai : May I know, was not the report also published along with the Bill ?

President : Then, what is the honourable member's suggestion ?

Mr. G. Narayana Aiyar : The consideration of the Bill in its present form may be taken up at some other session so that some more time may be given to the honourable members of this House to bestow sufficient attention on the bill.

President : I find that the honourable member had given certain amendments which came out of time. I have no objection to have them considered. I for one would leave that matter to be considered by the House. Apparently there is some controversy about this Bill while there is no controversy about the other bills. One view is that the Chitties bill should be pushed through as quickly as possible and there is also the other view that consideration of it should be postponed to the next session.

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The question that the consideration of the Bill may be postponed to the next session was put and carried.

AMENDMENTS TO THE FIRST SCHEDULE OF THE CIVIL PROCEDURE CODE.

Mr. N. Ramakrishna Pillai: Sir, I beg to move that amendments to the first Schedule of the Civil Procedure Code, 1100 as passed by the Assembly, be taken up for consideration.

Mr. C. P. Gopala Panicker: I second it.

Mr. V. N. Padmanabha Pillai: In place of the words now substituted in the Bill as passed by the Assembly, I move that the words "by a pleader appearing, applying or acting, as the case may be on his behalf" may be inserted.

President: What difference does it make?

Mr. V. N. Padmanabha Pillai: Rule 1 of Order III of the Civil Procedure Code reads:

> "Any appearance, application or act in or to any Court, required or authorised by law to be made or done by a party in such Court, may, except where otherwise expressly provided by any law for the time being in force, be made or done by the party in person, or by his recognized agent, or by a pleader duly appointed to act on his behalf"

Instead of the words "by a pleader duly appointed to appear, apply or act, as the case may be, on his behalf" as found in the Bill passed by the Assembly, the words "by a pleader appearing, applying or acting, as the case may be on his behalf" may be inserted and the necessary changes consequent upon that in Order III Rule 4 be made.

Mr. G. Narayana Aiyar: Sir, I rise to a point of order with regard to this amendment. I take it that we have no authority to amend the Rule other than those proposed by the High Court. By the present amendment the mover wants to amend Rule 4, paras 1 and 2 of Order III. I think it is not contemplated.

President: So far as the amendments to the Civil Procedure Code are concerned, the High Court has the authority to pass certain Rules and those Rules have to be placed before both Houses of the Legislature. But in this case, we have no authority to amend the Civil Procedure Code apart from those directed by the High Court. So, I must rule this amendment out of order.

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